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# THE FOUNDATION OF THE STATE

BY DAVID JAYNE HILL

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THE period of mental tranquillity happily intervening between electoral campaigns affords a favorable opportunity for the consideration of fundamental questions. Among these is the true nature of the State; for the most important task of mankind has been, and continues to be, the maintenance and perfection of the State as the organized expression of political ideals.

It would, however, be a public misfortune if, in the pursuit of ideals, we were to overlook the fact that, in some form, the State is a reality. Wherever human beings exist in a self-conscious society, there the State also has substantial being. As monarchy, oligarchy, or democracy, it lays the hand of power upon human life and in some degree shapes and controls its destinies.

What is it that constitutes the true source of the State's authority? What is it that requires of the individual the subjection of his private will to the demands and prohibitions of an authority superior to his own immediate interests and inclinations? In brief, whence does the State derive the right to command?

The first answer to this question is, that the individual must obey because the State possesses the power to compel obedience. It is evident, however, that, if an individual, or a group of individuals, possesses the power to resist or evade the authority of the State, the necessity of obedience disappears; and, further, that, if obedience is merely a question of submission to superior force, an individual, or a group of individuals, if their force were sufficient to enforce obedience to their own private will, might claim to possess the authority of the State. In other words, mere power may *compel* obedience; but it cannot create the *duty* of obedience. It can make laws, and it may be able to enforce them; but

this does not exclude our right to resist or evade them, if we possess the power or the ingenuity to do so. Mere *might* does not make *right*, and a State founded solely upon *force* can create no obligations that bind the reason or the conscience of its subjects.

At the present time there is, perhaps, no jurist or political philosopher who would defend the thesis that the State reposes merely upon the power to enforce obedience to arbitrary commands and prohibitions. In the revolt against personal despotism it was sought to base public authority not upon supreme power, but upon general consent. For arbitrary force was substituted the "will of the people." But, it may be asked, how is it possible to derive from a mere collection of private wills an authority that does not inhere in any one of them? What right is possessed by ten men that justifies them in imposing their private wills on an eleventh man who does not consent to obey them?

The mere statement of the question suggests the proper answer. There is nothing in a collection of merely private wills, considered as so many personal expressions of desire or determination, to give them authority over any other individual. If no one of them, considered singly, possesses authority over another person, all of them united possess no authority. As for consent, they may consent for themselves, but only for themselves; and, if mere consent be the basis of public authority, then the one individual who withholds his consent not only has a perfect right to do so, but the superior power of the majority can confer no right to impose upon him the rule of force.

Equally with the idea of superior power, therefore, the idea of the "will of the people," considered as mere volition, fails to furnish a defensible foundation for public authority. Either it does not exist at all, or it must be sought elsewhere.

Where, then, shall we seek the true foundation of the State?

Are there any principles by which the individual should be governed, even without his consent? Is there in human experience anything more authoritative than personal impulses and desires, or is there not? If not, there is no firm foundation for the State, and there is none for human character. The strongest group of impulses, whatever they

may be, will inevitably prevail. But to concede this is to return to the blind, cruel struggle of lust, greed, and the instinct for power out of which, after many wounds, civilization has painfully emerged.

It is, therefore, of prime necessity that we determine the question whether or not there are unalterable principles that should govern or overrule the mere volitions of men, and whether or not these have any relation to the State.

The tendency of our time is, undoubtedly, to weaken belief in unalterable and necessary principles of every kind, and to conceive of life, and even of the entire universe, as a mere process of transformation without definite ends. If this conception of existence be true, then the only ends worth serious consideration are those which are personal to each individual; in short, his own private advantage and temporary happiness. Everything except the sentiments of the personally agreeable or disagreeable being dismissed from consideration, there is no place for universal and authoritative principles. Esthetic conceptions take the place of moral conceptions; and even these are left without standards, the grotesque and the ugly affording a temporary relief to nerves wearied with the monotony of merely symmetrical and harmonious impressions.

It is no new thing to consider the current philosophy of life in relation to the prevailing conception of the State. In every age—in the city-states of Greece, in the Roman Republic, in the Empire, in the rule of Charlemagne, in the formation of the feudal monarchies, and in the development of the modern national states—the dominating philosophy of life has been a molding influence in the shaping of political conceptions; and it may be set down as a law of history that the abandonment of fixed principles has always preceded or been accompanied by the deterioration of the State.

The development of political institutions may be along definite lines of advance toward social justice, or it may deviate from those lines in either of two directions. Where the will of the people takes on the form of a struggle between private and class interests, the result is a condition of political anarchy. When this becomes intolerable some master hand, seizing the reins of power with the approval of those who have suffered most from the conflict of contending interests, undertakes to control the power of the

State, and the result is despotism. Wherever anarchy becomes dangerously acute, despotism tends to be established; and, as between the chaos of factional strife and the firm rule of a dictator, all the substantial interests of society have little difficulty in deciding upon a choice. They invariably prefer security to liberty, and public order to the pursuit of unrealizable ideals.

It is by considering these deviations that we can most clearly trace the normal course of political development. When exercised in either a popular or a dictatorial manner, *pure will*, undirected by fundamental principles, produces the ruin of the State. The very idea of government implies a restraint placed upon the volitions of men, which are of necessity not only different, but conflicting. The true secret of good government lies in the spirit of self-renunciation; and the word "*self-government*," which we are proud to repeat as a watchword, has no other meaning. It signifies government by self-restraint, as distinguished from government under compulsion. A people that is incapable of renouncing personal and private advantage in the interest of the public good is incapable of self-government, and will sooner or later seek and find a master.

We perceive, then, that the acceptance of universal and authoritative general principles is necessary to the normal development of the State, and that revolt against them is essentially a repudiation of the State-idea. Whence, then, are these principles to be derived?

It is clear that they cannot be derived from the idea of power alone. It is equally clear that they cannot be derived from the merely personal motives from which men act; for these, being of a private character, can have no public authority. The source of authority, if found at all, must, therefore, be sought in something deeper and more worthy of respect than either the mere power to enforce obedience or the merely personal motives of individual men.

Happily, we do not need to go beyond the limits of human personality to find such a source of authority; a source of authority superior not only to the will of individuals, but to the will of majorities. However we may explain its origin, there is in every human being capable of social organization a conception of justice as a principle wholly apart from personal desires or volitions. Attending this conception there is a sentiment of obligation to respect this

principle, regardless of personal interest or advantage. It is this that renders men fitted for human society, and makes possible the organization of the State as the embodiment of public authority. The State is nothing else than the body of which this principle is the life.

From another point of view the State is the expression of the impersonal reason which constitutes the common background of human personality; for the human person is not merely a group of sensations or the power to know and distinguish these. Nor is the essential element of personality its formal unity, but its intuition of community. An animal is a unit, and it possesses a vague sense of relation to its kind; but a person includes more than this. The indwelling reason, which is the characteristic mark of personality, and is yet other than personality, and transcendent over all the elements which compose the individual as an individual, cannot be resolved into the motives by which personal conduct is actuated. It is in its essential nature regulative and commanding. It speaks with an authority that is not to be found in personal motives, such as impulses and desires. It says to every one in whom it resides, "You ought," or "You ought not."

It is upon this principle that the true conception of the State is founded. It defies mere power, however its pressure may be exerted. It repudiates the control of mere numbers as it rejects the usurpation of one master. It appeals from the mere will even of majorities to the impersonal reason which issues its commands to all.

When men speak without qualification of the "will of the people" as the true source of authority and the rightful lawgiver in the State, they propose an unsound, and even a dangerous, doctrine. When men affirm that the wishes of majorities are the criterion of public action, they offer the people a false light. There are wrongs which majorities may not inflict, and there are rights which they should respect. Majority rule is, after all, merely an exercise of power; and power, as such, is not the true foundation of the State.

Practically, it is true, government is, and must be, conducted in accordance with the popular will; but it is always subject to reproof and correction at the bar of impersonal reason. Men really fitted for self-government will always be ready to accord this right of appeal. Men not yet ripe

for self-government will instinctively resist it, because they are autocrats at heart. As between the different forms of autocracy, there is slight ground for choice; for the rule of many purely arbitrary masters may be as odious as the rule of one.

Respect for the State depends upon insistence that the right of appeal to the principles of justice, upon which it is founded, should never be withheld from any, even the smallest minority, who feel that they have reason for making that appeal. Free speech, a free press, and freedom from every sort of intimidation are essential to a normal political development. The true patriot must, therefore, be a man without fear. The most important question is the attitude of the citizen toward the State. If the State is, as Hobbes regarded it, a mere "Leviathan"—something to fear rather than something to respect—patriotism becomes a difficult virtue, and may even degenerate into a vice. The adulation of power simply because it is power corrupts the citizen and deteriorates the State. The real patriots are those who are ready to serve it in its moments of weakness, peril, and distress, and to help it forward in accomplishing its high mission as the most potent of all agencies for the social advancement of mankind.

DAVID JAYNE HILL.